

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

MICHAEL BARRY, §  
§  
Plaintiff, §  
§  
v. § Case No. 6:21-cv-349-JDK-KNM  
§  
HENDERSON COUNTY, §  
§  
Defendant. §

**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Michael Barry, an inmate of the Henderson County Jail proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On October 29, 2021, Judge Mitchell issued a Report recommending that Plaintiff's civil rights lawsuit be dismissed for failure to prosecute because Plaintiff had failed to comply with two orders from the Court. Docket No. 13. A copy of this Report was mailed to Plaintiff, who received it on November 20, 2021. Docket No. 14. He did not file written objections to the Report.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews his legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 13) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED** without prejudice for failure to prosecute. All pending motions are **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this 27th day of December, 2021.



---

JEREMY D. KERNODEE  
UNITED STATES DISTRICT JUDGE